

**PENSIONS ALERT BULLETIN
21 FEBRUARY 2003**

PROPOSED RELAXATION OF PROVISIONS GOVERNING THE REDUCTION OF TRANSFER VALUES

Under the Occupational Pension Schemes (Transfer Values) Regulations 1996, there are limited circumstances in which an individual's cash equivalent transfer value can be reduced. There is also a prescribed time-frame for providing individuals with a statement of entitlement of their cash equivalent (i.e. a transfer value quotation). Two recent developments in relation to the calculation of transfer values will provide much needed flexibility to trustees of underfunded final salary schemes.

1. The draft Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2003

Currently, the 1996 Regulations allow a scheme to reduce cash equivalents in limited circumstances (for example, if it has a funding level below the MFR minimum).

The draft Regulations were published recently by the Department for Work and Pensions ("DWP"). The aim is to give more flexibility if the actuary produces a report to the trustees identifying that the scheme is not sufficiently well funded to provide cash equivalents for all members. The Faculty & Institute of Actuaries is to publish guidance on the "content and methodology" of such reports.

The DWP's proposals are in line with the Government's intentions set out in the recent Green Paper¹ that transfer values should be paid "on a basis that is fair to all". The consultation period under the Regulations ends on 28 March 2003 and the DWP expects that the Regulations will come into force as soon as possible thereafter.

2. Occupational Pensions Regulatory Authority ("OPRA") - temporary relaxation of policy

More recently, OPRA has announced a temporary relaxation of its policy on the payment of transfer values which will operate until the above Regulations come into force. In summary, OPRA will not generally penalise trustees who, acting on the advice of the scheme actuary, decide to delay the provision of transfer value quotations. However, in taking this decision, the trustees will need to:

- consider taking legal advice (in addition to obtaining the scheme actuary's advice);
- consider the position of the scheme in the light of the professional advice;
- explore alternative ways of protecting remaining members' benefits, such as obtaining an additional employer contribution into the scheme.

¹ Simplicity, security and choice: Working and saving for retirement (published on 17 December 2002)

Trustees will also need to keep affected members informed of the reasons for the delay and the steps which they propose to take in order that a quotation can be issued at the earliest opportunity.

Nothing stated in this document should be treated as an authoritative statement of the law on any particular aspect or in any specific case. Action should not be taken on the basis of this document alone. For specific advice on any particular aspect you should consult the usual Partner with whom you deal.

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